



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2010

Ms. YuShan Chang
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2010-10387

Dear Ms. Chang:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 386381 (Houston ORR# 17083).

The Houston Police Department (the "department") received a request for information pertaining to a named individual, a specified business, and a specified address. You state the department will provide the requestor with some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108(a)(2) excepts from disclosure information concerning an investigation that

concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

You state that report number 122670805 relates to case that is inactive pending additional leads. However, you also state that the statute of limitations for the offense described in this report has not yet run, and that the investigation may be reactivated once additional leads are developed. The offense described in the report at issue is burglary of a building, which carries a five-year statute of limitations. *See* Pen. Code § 30.02(c)(1) (burglary is state jail felony if committed in building other than habitation); Crim. Proc. Code art. 12.01(4)(A) (indictment for burglary may be presented within five years from the date of the commission of the offense, and not afterward). The listed offense was committed on August 11, 2005; thus, the statute of limitations for the listed offense has not yet run. Accordingly, we find you have established that release of report number 122670805 would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, section 552.108(a)(1) is generally applicable to this report. Additionally, you state that report number 124759703 relates to a closed investigation that concluded in a result other than conviction or deferred adjudication. Based on your representations and our review of the information at issue, we conclude that section 552.108(a)(2) is generally applicable to report number 124759703.

We note that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 536 S.W.2d at 559; Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Therefore, with the exception of basic information, the department may withhold report number 122670805 under section 552.108(a)(1) of the Government Code and report number 124759703 under section 552.108(a)(2) of the Government Code. The basic information must be released to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James McGuire", with a stylized flourish at the end.

James McGuire
Assistant Attorney General
Open Records Division

JM/dls

Ref: ID# 386381

Enc. Submitted documents

c: Requestor
(w/o enclosures)